

FILED BY CE D.C.

IN THE UNITED STATES DISTRICT COURT

FILED BY JSH D.C.

05 JUL 19 PM 3:44

FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION

05 JUL -7 AM 11:38

THOMAS M. GOULD  
CLERK, U.S. DISTRICT COURT  
WESTERN DISTRICT OF AMERICA,

THOMAS M. GOULD  
CLERK, U.S. DISTRICT COURT  
W/D OF TN, MEMPHIS

*Plaintiff,*

vs.

CHRIS NEWTON and  
CHARLES LOVE,

*Defendants.*

Case No. 2:05-cr-20205-1-MI

**MOTION GRANTED**

JON PHIPPS McALLAN  
U.S. DISTRICT JUDGE

July 19, 2005  
DATE

**DEFENDANT'S MOTION TO WAIVE APPEARANCE AT REPORT DATE  
AND TO PARTICIPATE VIA TELEPHONE CONFERENCE**

Comes now the Defendant, Chris Newton, by and through his counsel, and pursuant to the Notice of Setting [Court File No. 21], to hereby request that his appearance in Court at the August 23, 2005, report date be waived and that his attorneys be permitted to participate via telephone conference. In support of this motion, the Defendant would show as follows:

1. The Defendant lives and works in Cleveland, Tennessee, which is a distance of more than five (5) hours from the Court;
2. The proceedings will not be materially affected by the participation of the Defendant and his counsel by telephone conference;
3. The Defendant understands his right to be present and participate in these proceedings in open court, but, in accordance with the Waiver of Personal Appearance filed contemporaneously with this motion and incorporated herein by reference, desires to waive his right to personally appear;
4. Counsel for the Defendant has consulted with the Government about this

SHUMACKER  
WITT GAITHER &  
WHITAKER, P.C.

021182\00001\368795.v1

This document entered on the docket sheet in compliance  
with Rule 55 and/or 32(b) FRCP on 7-20-05

36

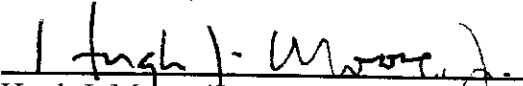
motion and represents to the Court that the Government does not oppose this motion;

5. That this request does not affect any deadline set forth under the Speedy Trial Act, 18 U.S.C. § 3161, *et seq.*, or under any order of this Court.

Respectfully submitted,

**SHUMACKER WITT GAITHER &  
WHITAKER, P.C.**

By:

  
Hugh J. Moore, Jr., Tenn. BPR No. 000883  
1100 SunTrust Bank Building  
736 Market Street  
Chattanooga, Tennessee 37402-4856  
(423) 425-7000  
*Attorneys for J. Christopher Newton*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and exact copy of this pleading has been served upon counsel for all parties at interest in this case by placing a true and exact copy of this pleading in the United States Mail, with sufficient postage, and addressed to such counsel at his or her office as indicated below:

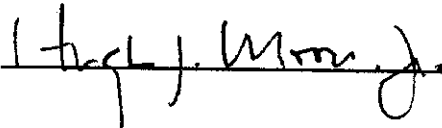
Timothy R. DiScenza  
Assistant U.S. Attorney  
167 N. Main Street, Suite 800  
Clifford Davis Federal Building  
Memphis, Tennessee 38103

Bryan H. Hoss  
Davis & Hoss  
508 East 5th Street  
Chattanooga, Tennessee 37403

This the 6 day of July, 2005.

**SHUMACKER WITT GAITHER &  
WHITAKER, P.C.**

By:

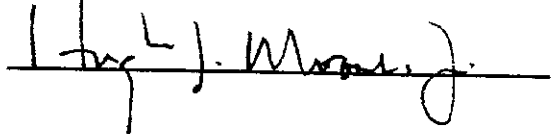


SHUMACKER  
WITT GAITHER &  
WHITAKER, P.C.

**CERTIFICATE OF COUNSEL**

I hereby certify that on June 27, 2005, co-counsel Thomas Greenholtz conferred with Assistant United States Attorney, Timothy DiScenza, by telephone regarding this motion. I represent to the Court that the U.S. Attorney's Office does not oppose this motion.

**SHUMACKER WITT GAITHER &  
WHITAKER, P.C.**

By: 



## Notice of Distribution

This notice confirms a copy of the document docketed as number 36 in case 2:05-CR-20205 was distributed by fax, mail, or direct printing on July 20, 2005 to the parties listed.

---

Hugh J. Moore  
SCHUMAKER WITT GAITHER & WHITAKER, P.C.  
736 Market St.  
1100 Suntrust Bank Bldg.  
Chattanooga, TN 37402--260

Timothy R. DiScenza  
U.S. ATTORNEY'S OFFICE  
167 N. Main St.  
Ste. 800  
Memphis, TN 38103

Honorable Jon McCalla  
US DISTRICT COURT